



October 15, 2007

The Honorable Martin J. Jenkins
United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

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Re: *Dukes v. Wal-Mart Stores, Inc.*
Case No. C-01-2252 MJJ

Dear Judge Jenkins:

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MARC VAN DER HOUT

We reviewed Mr. Perry's October 5, 2007 letter to you, and discussed it with him. Since there remain important issues regarding the document production necessary before we can depose Mr. Coughlin, we believe a conference call is still warranted.

First, we continue to dispute the appropriateness of the redactions made by Wal-Mart. Moreover, we still have not received a privilege log, despite repeated promises that we would.

Second, although Wal-Mart finally produced the document we referred to in our letter, this document itself raises important issues regarding the scope of discovery. It refers to a "D.M Mtg," (a meeting of District Managers who oversee the stores at which class members have worked) and indicates the presence of the then top operations executives: Scott, Coughlin, Duke, and Haworth. The subject matter of the document, especially its first two pages which we attach, is highly relevant to the topics we will cover in the deposition of Mr. Coughlin and generally to the issues in this case: Wal-Mart culture, its perceptions about male and female employees, job posting, career selection and diversity goals. The audience of the meeting is apparently district managers, whose critical role in the selection of managers and approval of pay levels is central to the claims in this action.

We asked Wal-Mart for the source of this document, and have renewed our request, first made in March, 2007, that documents from the key operations personnel who report to Mr. Coughlin be produced. Wal-Mart refuses this production, relying on the earlier agreement of the parties. This agreement, however, was a "preliminary agreement," and the parties expressly advised the Court that they "have not resolved all their differences, and may request the Court's assistance in addressing certain issues relating to the scope of discovery at

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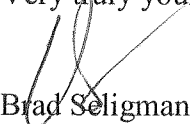

some point in the future.” Joint Statement Regarding Discovery Issues (Document 686). We consented to this preliminary agreement to “enable production to being [sic] expeditiously.” *Id.*

Wal-Mart refused, at that early stage, to produce any documents from operations executives other than Mr. Coughlin. The newly produced document, which it concedes was not among the files it searched, demonstrates that the limitation on the production to date has excluded important, relevant materials. Wal-Mart continues to refuse production of any documents from the files of the senior officials who headed store operations, including those executives who reported to Mr. Coughlin. It even refused to search the file of the undisclosed author of the document in question.

We also note that the entire document has been marked as “confidential.” We see no basis for this designation and Wal-Mart has not offered one.

We would appreciate the Court’s assistance in this matter.

Very truly yours,

 
Brad Seligman Joseph Sellers

Cc: Mark A. Perry

Encl.

D.M. Mtg. -1/24/04 07:12 am -

1. Sales
2. New Promotes
3. Retirees
4. On fall mtg. Will have Sam's & Wal-Mart Stores, Inc. Together.
5. Focus on Items - take home ideas to get sales.
6. Awards- Tom Coughlin Leadership Award.
7. Tom Coughlin while we had a bad year- we got a lot done.
- * focus on Development of future leaders, assistant managers.
- * shouldn't take more stores than we can adequately staff with mgmt.
- * compliance piece must be 100%
- ** we will now have Compliance Dept. They will help us get this piece right..

D.M. Mtg. -1/24/04 07:33 am

1. Dr. Wayne Brotbain. - Leadership Training
- * Led intro by talking about :
 - * How do you build a culture of execution.
 - * Tom Coughlin gives the best speech regarding Execution
- ** Single focus to get the job done.
- ** Success is in the culture
- ** key strategic inflection points
- * Focus- never let anything stop you from accomplish your tasks
- * women tend to be better at information processing.
- * men are better at focus single objective. Results driven.
- * stock price is driven by
 - ** Quality of Mgmt.
 - ***culture of execution
 - *** smart leaders
 - ***Future leaders
 - **Quality of Corp. Culture
 - *** culture of intellectual Leadership
 - *** culture of results
- Quality of Executive Compensation

D.M. Mtg. -1/24/04 12:25 pm

Mike Duke

1. The role of the DM is key when you supervise many stores.
 - * what you see is key to running this Company.
 - * You are the culture.
2. Customer Service
 - * We tend to react and treat their customers just like their front-end supervisors.
3. Take Care of Our Assoc.
 - * create a positive environment.
 - * start your tours with the positives not the negatives.
 - * R+ = positive reinforcement,
4. If the associate, feels good- then they do a good ,
4. Talked about the greeter
 - * Stop celebrate the success. The longer you wait the more diluted it gets.
5. When you silently accept behavior, (walking by issues without addressing them)- you have just lowered the standard for performance.
- 6..Think of ways that you can role model.
 - * little notes of thanks
 - * verbal thank you..
 - * when you tour .ask questions

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- * Ask their Opinion - then write it down. Mr. Sam always did this in a subtle way.
- 8. Associates of the Month/Year are not the best ways as R+ because they create as much negative. as the positive.
- 9.. We will only be as strong as your weakest link. Spend your time on your weakest link.
- 10. 2 Measurements will be focused on for Performance appraisals.
- * Store Trak and Grass Roots.
- 11. Go back and ensure that every one of your managers have a good work - home life balance.
- D.M. Mtg. -1/24/04 18:45 pm
- 1. Jim Haworth
- a.* STAR Overview
- ** will identify Compliance issues
- ** reduced from 236 to 98.
- ** specific guidelines
- b.*Office of Diversity
- **job analysis
- **examine job posting in the stores - this is causing us problems when not executed and documented.
- **diversity goals- tracking spreadsheets.
- * DM Role
- ensure all selection processes are executed.
- continue to base all selections on applicant pool.
- * numerical goal
- * good faith goals
- attend women in leadership conf.
- mentoring
- targeting diverse groups
- * all members of mgmt will be trained on diversity.
- c.* Store Trak Check Out Experience
- ** will be tracking shifts filled on weekend pref hrs * vs. T.Y. Hours sales.
- d.* Backroom Process
- **Is it the DM or the Store Manager
- ** Top Line Sales Growth
- * Needs to be about exception..
- *We have got to get after this.
- * We have to get after items to succeed.
- * Be observant on the

General Session 1/25/04 6:55 am

Jim Haworth

- 1. Mtg. Action Items
- * Star & Execution Thru Quality
- * Accident Cost. Shrink. Food Safety
- * Personnel Update
- * Front End. Check Out Experience
- * Backroom Process
- * Top Line Sales Growth
- 2. Intro of Senior Mdse Assoc
- * New Initiative- Top Line Sales Growth
- * Driving Sales thru:
- New Items
- OPP
- Key
- Seasonal
- Roll Backs

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